
SENATE BILL No. 340

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-39-7.

Synopsis: Prosecuting attorney pensions. Defines "salary", for purposes of computing a retirement benefit, to include the total salary paid to a participant in the prosecuting attorneys' retirement fund (fund) by the state and by a county or counties. Increases the participant contribution rate from 6% to 8.2% of salary. Eliminates contributions for a participant with at least 22 years of creditable service. Reduces from 0.25% to 0.10% per month the reduction factor for a retirement benefit computed for a participant who retires before 65 years of age. Provides a prorated retirement benefit for partial years of service. Makes changes to the fund's disability benefit by: (1) eliminating the minimum service required to receive a disability benefit; (2) redefining "disability"; and (3) increasing the salary percentages used to compute a disability benefit to equal the percentages used by the judges' retirement system for the same years of service. Increases the minimum annual survivor benefit from \$7,000 to \$12,000.

Effective: July 1, 2008.

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January 14, 2008, read first time and referred to Committee on Pensions and Labor.

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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

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SENATE BILL No. 340

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 33-39-7-7 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. As used in this
3 chapter, "salary" means the **total** salary paid to a participant by the
4 state **and by a county or counties**, determined without regard to any
5 salary reduction agreement established under Section 125 of the
6 Internal Revenue Code. ~~The term does not include an amount paid to~~
7 ~~a participant by a county or counties.~~

8 SECTION 2. IC 33-39-7-12 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) Except as
10 provided in subsection (b) **or (c)**, each participant shall make
11 contributions to the fund as follows:

12 (1) A participant described in section 8(a)(1) of this chapter shall
13 make contributions of six percent (6%) of each payment of salary
14 received for services after December 31, 1989, **and before July**
15 **1, 2008.**

16 (2) A participant described in section 8(a)(2) or 8(a)(3) of this
17 chapter shall make contributions of six percent (6%) of each



1 payment of salary received for services after June 30, 1994, and
2 before July 1, 2008.

3 **(3) A participant shall make contributions of eight and**
4 **two-tenths percent (8.2%) of each payment of salary received**
5 **for services after June 30, 2008.**

6 A participant's contributions shall be deducted from the participant's
7 monthly salary by the auditor of state and credited to the fund.

8 (b) The state may pay the contributions for a participant.

9 **(c) A participant who completes twenty-two (22) years of**
10 **creditable service in the fund is not required to make any**
11 **additional contributions to the fund.**

12 SECTION 3. IC 33-39-7-16, AS AMENDED BY P.L.33-2006,
13 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2008]: Sec. 16. (a) This section does not apply to a participant
15 who meets the requirements for disability benefits under section 17 of
16 this chapter.

17 (b) Except as provided in subsections (c) and ~~(d)~~, (e), the amount of
18 the annual retirement benefit to which a participant who applies for a
19 retirement benefit and who is at least sixty-five (65) years of age is
20 entitled equals the product of:

21 (1) the highest annual salary that was paid to the participant
22 before separation from service; multiplied by

23 (2) the percentage prescribed in the following table:

Participant's Years of Service	Percentage
Less than 8	0
8	24%
9	27%
10	30%
11	33%
12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

42 (c) If a participant who applies for a retirement benefit is not at least

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sixty-five (65) years of age, the participant is entitled to receive a reduced annual retirement benefit that equals the benefit that would be payable if the participant were sixty-five (65) years of age reduced by ~~one-fourth percent (0.25%)~~ **one (1) of the following percentages** for each month that the participant's age at retirement precedes the participant's sixty-fifth birthday:

(1) For a participant who applies for a retirement benefit before July 1, 2008, one-quarter percent (0.25%).

(2) For a participant who applies for a retirement benefit after June 30, 2008, one-tenth percent (0.10%).

(d) This subsection applies to a retirement benefit computed under subsection (b) or (c). If a participant has a partial year of service in addition to at least eight (8) full years of service, a participant is entitled to have added to the percentage prescribed under subsection (b)(2) an additional amount that is determined by prorating between the applicable percentages based on the number of months in the partial year of service.

~~(d)~~ **(e)** Benefits payable to a participant under this section are reduced by the pension, if any, that would be payable to the participant from the public employees' retirement fund if the participant had retired from the public employees' retirement fund on the date of the participant's retirement from the prosecuting attorneys retirement fund. Benefits payable to a participant under this section are not reduced by annuity payments made to the participant from the public employees' retirement fund.

~~(e)~~ **(f)** If benefits payable from the public employees' retirement fund exceed the benefits payable from the prosecuting attorneys retirement fund, the participant is entitled at retirement to withdraw from the prosecuting attorneys retirement fund the total sum contributed plus interest at the rate of five and one-half percent (5.5%) compounded annually.

SECTION 4. IC 33-39-7-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) Except as provided in subsection ~~(b)~~; **(c)**, a participant who becomes disabled **before July 1, 2008**, while in active service in a position described in section 8 of this chapter may retire for the duration of the disability if:

- (1) the participant has at least five (5) years of creditable service;
- (2) the participant has qualified for Social Security disability benefits and has furnished proof of the Social Security qualification to the board; and
- (3) at least once each year until the participant becomes sixty-five (65) years of age a representative of the board verifies the

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continued disability.

For purposes of this section, a participant who has qualified for disability benefits under the federal civil service system is considered to have met the requirement of subdivision (2) if the participant furnishes proof of the qualification to the board.

(b) Except as provided in subsection (c), a participant who becomes disabled after June 30, 2008, while in active service in a position described in section 8 of this chapter may retire for the duration of the disability if:

(1) the board determines that:

(A) the participant is incapacitated because of at least one

(1) physical or mental condition that renders the participant unable to perform the essential duties of a prosecuting attorney; and

(B) the condition is likely to be permanent; and

(2) at least once each year until the participant becomes sixty-five (65) years of age the board verifies the continued disability.

~~(b)~~ **(c)** Benefits may not be provided under this chapter for any disability that:

(1) results from an intentionally self-inflicted injury or attempted suicide while sane or insane;

(2) results from the participant's commission or attempted commission of a felony; or

(3) begins within two (2) years after a participant's entry or reentry into active service in a position described in section 8 of this chapter and was caused or contributed to by a mental or physical condition that manifested itself before the participant entered or reentered active service.

~~(c)~~ **(d)** To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material generated to prove that an individual is qualified for disability benefits under this section shall be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

SECTION 5. IC 33-39-7-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. (a) Except as provided in subsection ~~(b)~~, **(c)**, the amount of the annual benefit payable to a participant who meets the requirements for disability benefits under section 17 of this chapter is equal to the product of:

(1) the annual salary that was paid to the participant at the time of separation from service; multiplied by

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(2) the **applicable** percentage prescribed in **one (1)** of the following ~~table~~ **tables**:

(A) For a participant who applies for a disability benefit before July 1, 2008:

Participant's Years of Service	Percentage
Less than 5	0
5-10	40%
11	41%
12	42%
13	43%
14	44%
15	45%
16	46%
17	47%
18	48%
19	49%
20 or more	50%

(B) For a participant who applies for a disability benefit after June 30, 2008:

Participant's Years of Service	Percentage
0-12	50%
13	51%
14	52%
15	53%
16	54%
17	55%
18	56%
19	57%
20	58%
21	59%
22 or more	60%

(b) If a participant has a partial year of service in addition to at least eight (8) full years of service, a participant is entitled to have added to the percentage prescribed under subsection (a)(2) an additional amount that is determined by prorating between the applicable percentages based on the number of months in the partial year of service.

~~(b)~~ **(c)** Benefits payable to a participant under this section are reduced by the amounts, if any, that are payable to the participant from the public employees' retirement fund.

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SECTION 6. IC 33-39-7-19, AS AMENDED BY P.L.33-2006,
SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2008]: Sec. 19. (a) The surviving spouse of a participant who:

(1) dies; and

(2) on the date of death:

(A) was receiving benefits under this chapter;

(B) had completed at least eight (8) years of service in a
position described in section 8 of this chapter; or

(C) met the requirements for disability benefits under section
17 of this chapter;

is entitled, regardless of the participant's age, to the benefit prescribed
by subsection (b) or (c).

**(b) This subsection applies to the surviving spouse of a
participant who dies before July 1, 2008.** The surviving spouse is
entitled to a benefit for life equal to the greater of:

(1) seven thousand dollars (\$7,000); or

(2) fifty percent (50%) of the amount of retirement benefit the
participant was drawing at the time of death, or to which the
participant would have been entitled had the participant retired
and begun receiving retirement benefits on the date of death, with
reductions as necessary under section 16(c) of this chapter.

**(c) This subsection applies to the surviving spouse of a
participant who dies after June 30, 2008. The surviving spouse is
entitled to a benefit for life equal to the greater of:**

(1) twelve thousand dollars (\$12,000); or

**(2) fifty percent (50%) of the amount of retirement benefit the
participant was drawing at the time of death, or to which the
participant would have been entitled had the participant
retired and begun receiving retirement benefits on the date of
death, with reductions as necessary under section 16(c) of this
chapter.**

~~(c)~~ **(d)** Benefits payable to a surviving spouse under this section are
reduced by the amounts, if any, that are payable to the surviving spouse
from the public employees' retirement fund as a result of the
participant's death.

SECTION 7. [EFFECTIVE JULY 1, 2008] **(a) As used in this
SECTION, "fund" refers to the prosecuting attorneys retirement
fund established by IC 33-39-7-9.**

**(b) IC 33-39-7-7, IC 33-39-7-12, IC 33-39-7-16, IC 33-39-7-17,
IC 33-39-7-18, and IC 33-39-7-19, all as amended by this act, apply
only to a participant who, after June 30, 2008, earns creditable
service in the fund for service in a position described in**

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1 IC 33-39-7-8(a).

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